

HUF 25 million fine imposed by the GVH to a German manufacturer and a domestic distributor for false promises

21 May 2021, Budapest – The Hungarian Competition Authority (GVH) imposed a fine of HUF 25 million on a German manufacturer and a domestic distributor of a hair loss reducing shampoo for promoting its product using dishonest health claims.

In the recently concluded proceeding, the GVH investigated the television, printed, and online media advertisements, eDM communication, Facebook and Google advertisements, YouTube videos, and advertising media displayed in cinemas promoting the Parusan-brand hair loss reducing cosmetics for women (stimulating shampoo and energising tonic). In the course of the proceeding, the German manufacturer of the products, Dr. Theiss Naturwaren GmbH, and its Hungarian subsidiary and distributor, Naturprodukt Kft., failed to provide sufficient evidence for some of their health claims, including the assertions that the products increase blood flow and nutrient supply in the scalp, reinforce the hair, or fully eliminate hair loss. Pursuant to both the Hungarian regulations on unfair commercial practices against consumers and the applicable sectoral regulations of the EU, the advertisements of cosmetics may only contain product characteristics that the distributor is able to provide evidence for.

The investigation also revealed that the undertakings promoted these cosmetics by combining an advertisement with editorial content, that is an article responding to a fictional customer letter about summer hair care, in the *Patika Tükör* (Pharmacy Mirror) magazine. However, the paid-for nature of the article associated with the advertisement was not disclosed, even though the shampoo distributor exercised an influence over its contents. As a result, the concealed advertisement was also found to have infringed the law: the reason being that it is mandatory to disclose it in a clear and easily noticeable manner if a piece of media content was created in cooperation with an advertiser.

The GVH imposed a fine of HUF 25 million for the infringement, for which the German manufacturer and the Hungarian subsidiary are jointly and severally liable. When determining the amount of the fine, the competition council took into account the fact that the claims which were found to have infringed the law only appeared in a small portion of the advertisements belonging to the campaign since the suitability of the products for reducing hair loss (this being the key message of the advertisements) was sufficiently proven by the undertakings, and the distributor also agreed to ensure compliance with the law in the future by introducing a number of measures. The GVH imposed also a fine of HUF 185 thousand on Patika Tükör Kft., the publisher of the concealed advertisement, considering that the undertaking has already published advertisements concealed as editorial content in the past. However, among other factors, the Authority did take into account that the Hungarian undertaking admitted to committing the infringement.

The official registration number of the case is: **VJ/21/2021.**

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